

11R-137

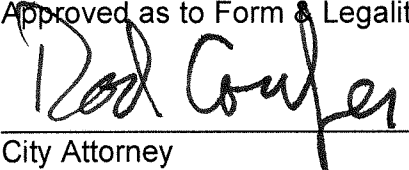
MOTION TO AMEND NO. 1

I hereby move to amend Bill No. 11R-137 to accept the attached Substitute North 45th Street and Vine Street Development and Conditional Zoning Agreement to replace the current Development and Conditional Zoning Agreement.

Introduced by:

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Approved as to Form & Legality:

  
\_\_\_\_\_  
City Attorney

Requested by: Rick Peo

Reason for Request: To reflect a change in the identity of the Owners.

**North 45th Street and Vine Street  
DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT**

This Development and Conditional Zoning Agreement (the "Agreement") is hereby made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between AG Realty Limited Partnership, a Nebraska limited partnership, hereinafter referred to as "Developer," and Eugene F.J. Cotter, a single person, as life estate holder and as holder of an undivided one-half remainder interest of the Property described below, and Jean Ann Cotter, a single person, as the holder of the other undivided one-half of the remainder interest of the Property described below (hereinafter collectively referred to as "Owner") and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City."

**RECITALS**

**I.**

Developer has petitioned the City for a change of zone (designated as Change of Zone No.11017) from B-1 Local Business District to H-2 Highway Business District upon property generally located at North 45th Street and Vine Street and legally described as: that portion of Lot 1, Block 1, Cotters Replat, (formerly Lot 1, Block 15, Newman & Lots "A" and "C", Barnes Addition) located in the Northwest Quarter of Section 20, Township 10, Range 7 East of the 6th P.M., Lincoln, Lancaster County Nebraska, not currently zoned H-2 Highway Business District, hereinafter referred to as the Property.

**II.**

Approval of this change of zone from B-1 Local Business District to H-2 Highway Business District would allow Developer to use Lot 1, Block 1, Cotters Replat, for motor vehicle sales, mini-warehouses and vehicle body repair shops which uses would not be compatible with the surrounding uses and development.

**III.**

The Developer and Owner have represented to the City that in consideration of the City re-zoning Lot 1, Block 1, Cotters Replat, the Developer and Owner will enter into this Agreement regarding development of the Property with the City in order to provide a compatible development with the adjacent development.

**IV.**

The City desires to enter into this Agreement, to be assured that the Property will be used in a manner compatible with the adjacent property should the Property be rezoned to H-2 Highway Business District.

NOW THEREFORE, in consideration of the above recitals and the following terms and conditions, the parties agree as follows:

1. The City hereby agrees to grant Developer's petition to change the zoning map from B-1 Local Business District to H-2 Highway Business District on the Property.

2. In consideration for the City rezoning the Property to H-2 Highway Business District, the Developer and Owner agree that the following permitted uses in the H-2 Highway Business District are prohibited on Lot 1, block 1, Cotters Replat:

- (a) Motor vehicle sales;
- (b) Mini warehouses;
- (c) Vehicle body repair shops.

3. This Agreement shall run with the land and shall be binding upon the parties hereto and their respective successors and assigns.

4. This Agreement, when executed by the parties hereto, shall be recorded by the City in the office of the Register of Deeds of Lancaster County, Nebraska, filing fees to be paid in advance by Developer.

IN WITNESS WHEREOF, the parties herein have executed this Agreement on the day and year set forth above.

**AG Realty Limited Partnership,**  
a Nebraska limited partnership,

By: \_\_\_\_\_  
Title:

\_\_\_\_\_  
Eugene F.J. Cotter

\_\_\_\_\_  
Jean Ann Cotter

ATTEST:

**CITY OF LINCOLN, NEBRASKA**  
a municipal corporation

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Chris Beutler, Mayor of Lincoln

STATE OF NEBRASKA                    )  
  ) ss.  
COUNTY OF LANCASTER            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2011, by \_\_\_\_\_, \_\_\_\_\_ of AG Realty Limited Partnership, a Nebraska limited partnership.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA                    )  
  ) ss.  
COUNTY OF LANCASTER            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2011, by Eugene F. J. Cotter.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA                    )  
  ) ss.  
COUNTY OF LANCASTER            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2011, by Jean Ann Cotter.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA                    )  
  ) ss.  
COUNTY OF LANCASTER            )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2011, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

\_\_\_\_\_  
Notary Public